

IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

Case No. CR01-31

vs.

JUDGMENT OF PROBATION

BEN E. WATSON,
Defendant.

DATE OF SENTENCING: April 5, 2002.

APPEARANCES:

For plaintiff: Eric A. Scott, Cherry County Attorney.
For defendant: Mark Kozisek with defendant.

THIS CASE CAME ON FOR SENTENCING. The Court finds that the defendant was adjudged guilty of the charge(s) of Burglary, a Class III felony, on October 21, 2001. Allocution had: defendant showed no sufficient reason why sentence should not be pronounced.

IT IS THEREFORE ORDERED AND ADJUDGED that the defendant is hereby sentenced to Probation for a period of four (4) years from and after the commencement of probation under the supervision of a State Probation Officer. The term of probation shall be deemed to commence upon the first to occur of the following: (1) defendant’s acceptance in writing of the conditions of probation, (2) the expiration of 30 days from the date of entry of this judgment if no appeal is taken, or, (3) the entry of judgment upon the mandate of the appellate court if appeal is timely perfected within 30 days after the date of entry of this judgment. As conditions of probation, the defendant shall:

1. Not violate any laws, and refrain from disorderly conduct or acts injurious to others.
2. Avoid social contact with those persons having criminal records or who are on probation or parole.
3. Report to your probation officer in person as required by the probation officer, at such reasonable times and places to be fixed by the probation officer. If the defendant is arrested or cited for any violation of law, report such arrest or citation to the probation officer by the next working day.
4. Truthfully answer questions and allow the probation officer to visit you at all reasonable times and places. Generally cooperate with the reasonable requests of the probation officer for information. Show ordinary business courtesy toward the probation officer.

5. With regard to the amounts of money ordered paid by the defendant during probation, such amounts shall be paid in compliance with a reasonable installment payment schedule at the rate of \$40.00 per month, the first installment due on the first day of the month following the date of commencement of probation, and a like payment on the first day of each consecutive month thereafter until paid in full. Payments shall be applied: 1st, to court costs; 2nd, to drug and alcohol testing; 3rd, to defense counsel reimbursement; and 4th, to any other amounts required by this judgment.
6. Obtain and maintain suitable employment, or provide adequate proof to the probation officer that the probationer is diligently seeking employment.
7. In the alternative to employment, the probationer may attend school in a suitable program approved by the probation officer directed toward completion of specific program or attainment of a specific diploma or degree. If so authorized, the probationer shall have no unexcused absence from school.
8. If required by the probation officer, such proof of search for employment shall include, at a minimum, registration with the Nebraska Job Service, and weekly reports in writing of at least two (2) bona fide personal contacts with prospective employers listing: (a) the name of the prospective employer, (b) the name of the person contacted; (c) the date and time of the contact; (d) the position for which employment was sought; (e) the job description of such position or a list of the skills required therefor; and, (f) such additional reasonable information as the probation officer may require from time to time.
9. Meet your family responsibilities. If you have been or are hereafter ordered by any court to pay child or spousal support, pay all such amounts as directed by the court before the same become delinquent.
10. Obtain permission from this court or the probation officer before any change of address or employment.
11. Furnish the Clerk of the District Court for this county, in writing, with defendant's address (including specific street address or other physical location, in addition to mailing address), telephone number, and social security number, and the name, address, and telephone number of defendant's employer. The defendant shall also be required to advise the clerk in writing of any changes in such information between the time of entry of this judgment and release from probation, within ten (10) days after the effective date of such change.
12. Not leave the State of Nebraska without written permission of the court or the probation officer.
13. Not have possession of any firearms, ammunition, or illegal weapons. Not be personally present with anyone who has possession of any firearms, ammunition, or illegal weapons.
14. Submit, from time to time, to any reasonable search and seizure of premises, person or vehicle, with or without probable cause, by or upon request of the probation officer or any law enforcement officer.

15. Concerning alcohol and drugs:
 - A. Not use or possess any alcoholic liquor or beverages.
 - B. Not use or possess any controlled substance except when prescribed by a licensed physician.
 - C. Submit to the following tests and examinations:
 - (1) Roadside sobriety test;
 - (2) Alco-sensor test;
 - (3) Chemical test for alcohol or drug content of your blood, breath or urine; and/or,
 - (4) Tests to determine the loss of mental function or physical agility due to the use of alcohol or drugs.
 - (5) Such tests may be administered at any time and from time to time, with or without probable cause, upon request of the probation officer, or any law enforcement officer.
 - D. Pay to the clerk of the sentencing court \$240.00 (based upon \$5.00 per month) for chemical testing while on probation (included in installments). If additional testing is required by this judgment which is not included in the standard fee above, pay to the clerk of the sentencing court the actual cost of such testing as certified by the probation officer from time to time.
 - E. Attend and successfully complete drug abuse treatment and counseling conducted by one of the community mental health facilities authorized by Chapter 71, article 50, of the Nebraska Revised Statutes, or other licensed drug treatment facility.
 - F. If directed by the probation officer in writing at any time during the term of probation, initiate in-house drug and/or alcoholism treatment at a facility approved by the probation officer within five days after being so directed, complete the required program, and pay the costs of such treatment to the facility before being released from probation.
 - G. Complete any after-care program specified by the facility approved by the probation officer.
16. Complete all requirements and successfully obtain General Education Developmental (GED) certificate within one year after commencement of probation. Such one-year period shall be suspended during any period that the defendant attends high school and provides satisfactory proof to the probation officer of normal progress toward completion of all graduation requirements.
17. Obtain and complete a referral to an appropriate Mental Health Center approved by the probation officer for outpatient psychological counseling. All costs shall be paid by the probationer. He shall submit the name, address, and telephone number of an acceptable center within 30 days after commencement of probation, and shall thereafter attend and participate in such counseling until successful completion of the counseling as determined by the counselor.

18. Pay for the costs of any tests, evaluations, treatments, counseling, programs, classes, courses, meetings, or exercises required under the terms of this judgment or as required by the probation officer as a part of the administration of the terms of probation.
19. There were 94 days of jail time or equivalent, including 84 days of commitment for evaluation, served before sentencing.
20. The defendant shall apologize in person to Toby Miller of Miller Bros., the victim of the crime, or other designated person approved by the probation officer, within 30 days after the commencement of probation; and the defendant shall provide written verification to the probation officer within 10 days thereafter that the apology has been accomplished. If the victim or representative shall request the apology to be furnished in writing or shall request that there be no personal contact with the defendant, the apology shall be in writing and not in person.
21. No restitution was sought by the plaintiff.
22. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$ _____ (included in installments).
23. Pay to the clerk of the sentencing court, for disbursement to Cherry County for partial reimbursement of the cost of defense counsel, the sum of \$240.00.
24. In addition to any order of revocation, suspension, or limited driving imposed by law, the defendant's motor vehicle operator's license shall be impounded and the driving privileges of the defendant shall be limited as follows:
 - A. The defendant shall not operate a motor vehicle, except:
 - (1) to drive between the place of residence and employment by the most direct route,
 - (2) during the course of employment for employment purposes only,
 - (3) to and from probation and counseling appointments by the most direct route,
 - (4) to and from AA/NA meetings by the most direct route, and,
 - (5) emergencies.
 - B. This period of impoundment shall be for a period of two (2) years from date of sentencing.
 - C. The probation officer may terminate this period of impoundment at any time, or may grant exceptions from time to time.
 - D. The defendant shall deliver his motor vehicle operator's license to the probation officer, who shall hold the same during the period of this limitation, and who shall provide the defendant with a photocopy thereof with these restrictions endorsed thereon.
 - E. This paragraph does not grant any driving privileges and does not affect any more restrictive order of revocation, suspension, or non-driving entered pursuant to law.
25. For a period of two years from the commencement of probation, the defendant shall maintain a curfew and shall not be present outside of the defendant's home and its curtilage between the hours

of 11:00 PM and 5:00 AM, except for emergencies, work-related activities approved in advance in writing by the probation officer, or other special family, church, or community activities approved in advance in writing by the probation officer.

26. The defendant shall, within 20 days after commencement of probationary, cause a display advertisement to be published:
- A. In the Valentine Midland News, or other newspaper in general circulation in Valentine, Nebraska approved by the probation officer;
 - B. Consisting of at least 21 column inches;
 - C. With the form and content to be approved in advance by the probation officer, and to include, at a minimum:
 - (1) the defendant's name;
 - (2) a picture of the defendant showing a reasonable likeness to the defendant's then current appearance;
 - (3) a statement that the defendant has pleaded guilty to the charge of burglary;
 - (4) a statement that the defendant has been placed on probation, including 94 days of jail time;
 - (5) any public apology the defendant desires to include that does not dispute the essential nature of the conviction or the convicted offense;
 - (6) a statement that the defendant's probation prohibits the defendant from:
 - (a) using or possessing alcohol or controlled substances;
 - (b) operating a motor vehicle for any purpose other than driving between the place of residence and employment by the most direct route, during the course of employment for employment purposes only, to and from probation and counseling appointments by the most direct route, to and from AA/NA meetings by the most direct route, and, emergencies;
 - (c) violating curfew by being outside of the defendant's residence and its curtilage between the hours of 11:00 P.M. and 5:00 A.M., except for approved employment;
 - (7) the name, address, and telephone number(s) of the probation officer(s) having supervisory responsibility for the defendant;
 - (8) requesting any member of the public observing any violation of probation to immediately report the matter to the probation officer or any law enforcement officer; and,
 - (9) a statement that the advertisement is being published at the defendant's expense by order of the District Court of the Eighth Judicial District as a condition of probation.
 - D. The defendant shall, within 10 days after date of publication, provide a copy of the published notice from the newspaper to the probation officer.

E. The defendant shall pay all costs of publication and copying.

IT IS FURTHER ORDERED AND ADJUDGED that during the term of this probation, the Court, upon application of the probation officer or the defendant, or upon its own motion, may modify or eliminate any of the above conditions or add further conditions.

BY THE COURT:

William B. Cassel, District Judge

I hereby accept probation and agree to abide by all the conditions of probation ordered by the court. Any violation of the above conditions is cause for revocation of my probation and may result in a sentence to confinement and/or other authorized punishment. I do hereby waive extradition to the State of Nebraska if, at the time of my apprehension, I am in another state. If probation supervision is transferred to another state, I do hereby agree to abide by additional rules and regulations that may be imposed by the receiving state.

I received a copy of the above judgment on _____, 2002.

Defendant